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FILE: [REDACTED]
[WAC 05 104 85261]

Office: CALIFORNIA SERVICE CENTER

Date: MAR 02 2007

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The applicant filed an initial Form I-821, Application for Temporary Protected Status, during the initial registration period that was approved by the Director, Texas Service Center, (TSC), on February 20, 2004. On April 24, 2003, the Director, TSC issued the applicant a Notice of Intent to Deny, (NOID), requiring the applicant to submit court dispositions for his arrests. In the NOID, the director noted that that the Metro-Dade Police Department in Miami, Florida had entered a "Protection Order, non-expiring, STAY AWAY ORDER against you on 03/22/2000." After receiving no reply, the Director, TSC withdrew the approval of the applicant's TPS finding that the applicant had been arrested and/or convicted for multiple crimes.

The applicant did not appeal the director's decision.

The applicant filed the current Form I-821, on January 12, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If an alien is filing a re-registration application, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

The applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

An alien shall not be eligible for temporary protected status under this section if the Secretary of the Department of Homeland Security finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States. See Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

The record reveals the following offenses:

1. The applicant's Federal Bureau of Investigation (FBI) fingerprint results report shows that on March 12, 2000, he was arrested by the Miami Police Department in Florida for assault or battery.
2. The FBI fingerprint results report shows that on December 4, 2001, he was arrested by the Palm Beach County Sheriff's Office in Florida for "TRESPASSING-FAIL TO LEAVE PROPERTY UPON ORDER BY OWNER, a misdemeanor.

3. The FBI fingerprint results report shows that on May 4, 2002, he was arrested by the Lake Worth Police Department in Florida for: (1) "RESISTING OFFICER-WITH VIOLENCE," a misdemeanor; (2) "BATTERY-ON OFFICER FIREFIGHTER EMT ETC," a felony; (3) "TRESPASSING-FAIL TO LEAVE PROPERTY UPON ORDER BY OWNER," a misdemeanor.
4. The FBI fingerprint results report shows that on June 7, 2003, he was arrested by the Miami Police Department in Florida for driving under the influence.

The final court dispositions of these arrests and any others he may have incurred have not been provided for the record by the applicant.

It is noted that, in removal proceedings held on March 27, 1995, an Immigration Judge in Phoenix, Arizona, ordered the applicant deported "in absentia" to Honduras. It is further noted that the record contains an outstanding Form I-205, Warrant of Deportation, issued by the District Director of the Tucson, Arizona, office of Citizenship and Immigration Services, (formerly, the Immigration and Naturalization Service) on April 28, 1995.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements cited above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.